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ETHICS OFFICE

Ginny Looney, Ethics Officer

July 21, 2006

Mayor Shirley Franklin
City of Atlanta
55 Trinity Avenue, Suite 2400
Atlanta, GA 30303

Dear Mayor Franklin:

We are writing this letter in response to your request as conveyed by Chief of Staff Greg Pridgeon for an opinion on the ethics legislation that the City Council passed on Monday.

Of the six ordinances adopted, only one involves the Code of Ethics. Ordinance 06-O-1368 revises the definition of "immediate family" in section 2-801 from its current definition of spouse, registered domestic partner, and dependent child to mean "spouse, domestic partner registered under section 94-133, mother, father, sister, brother, and natural or adopted children of an official of employee."

The Ethics Officer recommended, and the Board of Ethics at its May meeting approved, this proposed change. The amendment strengthens the Code of Ethics by expanding the definition of immediate family to include parents, siblings, and adult children. As amended, the Code of Ethics:

- Prohibits city officials and employees from participating in contracts in which they know or with reasonable investigation should know that their spouse, registered domestic partner, parents, children, or siblings have a financial interest or personal interest. We interpret this prohibition as precluding any city official or employee, including council members, from voting or participating in any other decision related to a contract involving a spouse, domestic partner, parent, sibling, child, or the spouse of a parent, sibling, or child. It seems obvious that if the spouse of a child or sibling benefits by a contract, then the child or sibling would also share that benefit. See section 2-812.
- Requires persons who must file a city financial disclosure statement to disclose when one of these family members is employed by the City or engaged in a "beneficial transaction" with the City. The 2006 City Financial Disclosure form lists beneficial transactions as a contract, zoning matter, liquor license, or grant or receipt of aid. This change provides a way for the public to determine whether the rule against nepotism in the City Charter and the Civil Service Code is being followed by the elected officials and city employees who are required to file financial disclosure statements.

A question has arisen concerning whether one of the other ordinances weakens the city's ethical standards. Ordinance 06-O-1370 redefines the term "immediate family" in the council rules on avoiding conflicts of interest to make it consistent with the definition being adopted elsewhere in the Code of Ordinances. Originally it defined the term "immediate family" to include "a spouse, a child or spouse of a child, a brother or sister or spouse of either, a father or mother or spouse of either and a niece or nephew or spouse of either." The amended code section adds a registered domestic partner to the definition of immediate family, but deletes the references to the spouse of a child, brother or sister, and mother or father and "a niece or nephew or spouse of either."


Having reviewed these changes, we have concluded that the ordinance adopts a fair and justifiable definition of immediate family that does not undermine our efforts to build a culture of ethics in the City of Atlanta. First, we do not believe the omission of the references to spouses changes the rules on voting by council members. Under both the original definition and the newly adopted definition, council members may not vote on any measure that would affect the financial interest of a spouse, domestic partner, parent, sibling, or child, which includes contracts and other measures involving the spouse of the parent, sibling, or child.

Second, the deletion of nieces and nephews from the definition of immediate family members strikes us as a sensible decision. Logically, there is no reason to define a niece or nephew as immediate family, but exclude uncles and aunts, grandfathers and grandmothers, and granddaughters and grandsons. At some point, a line must be drawn, and we think the one chosen by the council is a reasonable one. Nieces and nephews are one step further removed from the council member than a spouse, parent, child, or sibling, and therefore the council member has a less direct financial interest and is less likely to know about their financial interests.

In conclusion, the legislation strengthens the City's ethical standards. It extends the prohibition against participating in contracts involving parents, siblings, and adult children to all city officials and employees. It increases the disclosure required by officials and employees on beneficial transactions that their immediate family members have with the City, and it has the practical advantage of adopting a clear, consistent, and concise definition for "immediate family" in the Code of Ordinances.

If you need additional information, please let us know.

Sincerely,



John D. Marshall, Jr.
Chair, Board of Ethics



Ginny Looney
Ethics Officer

cc: Lisa Borders, Council President
City Council members
Board of Ethics
Lynnette Young, Chief Operating Officer
Greg Pridgeon, Chief of Staff
Linda DiSantis, City Attorney